

Applicant : J. Stuart Cumming  
Appl. No. : 09/740,679  
Examiner : Eduardo C. Robert  
Docket No. : 13533.4033

### REMARKS

This is in response to the Office Action of November 29, 2004 and the Advisory Action of February 18, 2005.

Filed herewith is a Terminal Disclaimer to overcome the double patenting rejection. As a result, clearly Claims 104 and 106 are allowable as indicated in the Office Action of November 29, 2004.

Furthermore, Claims 53-102 and 105 which the Examiner contends are withdrawn should now be allowable because each of independent Claims 53, 80, 88, 90 and 105 is generic to the elected species of Figure 18 as are allowed Claims 106 and 104. In the response filed November 2002, it was stated that various independent and dependent claims read on the elected species. Also, the lenses shown in Figures 16-20 are identical to lens 32 of Figures 1 through 8 except for the knobs 118.

In the Office Action of November 29, 2004, the Examiner contended that the addition of "refractive" optic "to function as a single optic" "appears to be new matter." It is respectfully submitted that it is not new matter; however, the reference "to function as a single optic" has been omitted from the subject claims. Additionally, as stated in the response filed January 24, 2005, it is abundantly clear that the optic disclosed is refractive. Also, the materials described on page 32, line 12, etc., are solid and obviously refractive since they are solid and the optic has curvature to thus have power. The lens is referred to on page 33, line 10 as resilient semi-rigid material, and on page 33, line 26 as hard material. Furthermore, Figures 54 – 57 show refraction by the rays shown and which are bent, resulting from refraction.

Applicant : J. Stuart Cumming  
Appl. No. : 09/740,679  
Examiner : Eduardo C. Robert  
Docket No. : 13533.4033

Finally, additional Claims 107 – 124 are added herewith and which read on the elected species. Favorable reconsideration and a Notice of Allowance is earnestly solicited.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: May 25, 2005

By: 

Samuel B. Stone  
Reg. No. 19,297

Orrick, Herrington & Sutcliffe LLP  
4 Park Plaza, Suite 1600  
Irvine, CA 92614-2558  
Tel. 949-567-6700  
Fax: 949-567-6710